

1 THE HONORABLE JAMES L. ROBART  
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8 **UNITED STATES DISTRICT COURT**  
9 **WESTERN DISTRICT OF WASHINGTON**  
10 **AT SEATTLE**

11 STATE OF WASHINGTON,

12 Plaintiff,

13 v.

14 DINAV HOLDING, INC., a Florida  
15 Corporation; JONATHAN DIAZ, as  
16 President of DINAV HOLDING, INC.,  
17 individually and on behalf of his marital  
community; and JUAN CARLOS DIAZ,  
18 as Vice President of DINAV HOLDING,  
19 INC., individually

Defendants.

NO. 2:12-cv-02118

*JLR*  
[PROPOSED] ORDER FOR  
ENTRY OF DEFAULT  
JUDGMENT AGAINST  
DEFENDANTS, JONATHAN  
DIAZ AND DINAV HOLDING,  
INC. AND MOTION TO DISMISS  
DEFENDANT JUAN CARLOS  
DIAZ

20 **I. JUDGMENT SUMMARY**

21 This matter comes before the Court on Plaintiff's, the State of Washington, Motion for  
22 Default Judgment against Defendants Charles Jonathan Diaz and Dinav Holding, Inc. and  
23 Motion to Dismiss Defendant Juan Carlos Diaz without prejudice.

24 1.1 Judgment Creditor:

STATE OF WASHINGTON

25 1.2 Judgment Debtor:

DINAV HOLDING, INC., a Florida  
corporation, and JONATHAN DIAZ,  
individually and on behalf of his marital

[PROPOSED] ORDER FOR ENTRY OF  
DEFAULT JUDGMENT AGAINST  
DEFENDANTS, JONATHAN DIAZ AND DINAV  
HOLDING, INC. AND MOTION TO DISMISS  
DEFENDANT JUAN CARLOS DIAZ  
CASE NO. 2:12-CV-02118

community and as President of Dinav Holding Inc.

1.3 Principal Judgment Amount: \$49,348,443.08

1.4 Post Judgment Interest Rate: 15% per annum, beginning twelve months from the date of Judgment.<sup>1</sup>

1.5 Attorney for Judgment Creditor: Paula Selis, Senior Counsel

Plaintiff, State of Washington, having filed a Complaint for Injunctive and Additional Relief under the Telephone Consumer Protection Act (TCPA), 47 U.S.C. §227, the Commercial Electronic Mail Act (CEMA), Wash. Rev. Code §19.190; and the Consumer Protection Act (CPA) Wash. Rev. Code §19.86, on December 6, 2011; and

Defendants Dinav Holding, Inc. and Jonathan Charles Diaz, having been served with copies of the Complaint herein; and

Defendant Juan Carlos Diaz, having not been served; and

Plaintiff appearing by and through its attorney, Robert Ferguson, Attorney General, and Paula Selis, Senior Counsel; and

Defendants Dinav Holding, Inc. and Jonathan Charles Diaz, having failed to appear or file any responsive pleading to the Complaint; and

The Court having determined that there is no just reason for delay in the entry of a final judgment against Defendants Dinav Holding, Inc. and Jonathan Charles Diaz, and dismissal of this matter against Juan Carlos Diaz, and being fully advised, the Court hereby makes and enters the following:

## II. FINDINGS OF FACT

2.1 Defendant Dinav Holding Inc. is a Florida for-profit corporation. Its principal place of business is located at 3049 Getty Way, Apartment 104, Orlando, Florida 32835-2485. It has transacted business in the state of Washington and in the Western District of Washington.

<sup>1</sup> See U.S. Federal Reserve Statistical Release H.15 (519), March 13, 2013.

1       2.2    Defendant Jonathan Charles Diaz is the President of Defendant Dinav Holding, Inc.  
2    Jonathan Charles Diaz resides at 4500 Oakcreek St. #114, Orlando Florida 32835. Jonathan  
3    Charles Diaz has transacted business in the State of Washington and in the Western District of  
4    Washington.

5       2.3    On May 14 and 15, 2012, Defendants sent 49,309 unsolicited commercial text  
6    messages to Washington-based cellular phones using an automatic telephone dialing system.  
7    Defendants used two Florida-based numbers to send the text messages: (407) 797-1051 and  
8    (407) 748-3393.

9       2.4    The text messages contained a hypertext link to the Defendants' website,  
10    [www.5minutespeedloan.com](http://www.5minutespeedloan.com).

11      2.5    Defendants initiated or provided substantial assistance of support to those who initiated  
12    the text messages.

13      2.6    Defendants sent the text messages to Washington-based cellular phones to promote the  
14    sale of payday loan services.

15      2.7    Defendants, Jonathan Charles Diaz and Dinav Holding Inc., were served with the  
16    Complaint and Summons as required by Fed. R. of Civ. P. 4 on December, 10, 2012.

17      2.8    The State of Washington was unable to effectuate service on Defendant Juan Carlos  
18    Diaz, despite repeated attempts to locate and serve him.

19      2.9    Defendants, Jonathan Charles Diaz and Dinav Holding Inc., each failed to file an  
20    Answer within the time set forth by Fed. R. of Civ. P. 12(a) or otherwise defend this action.

21      2.10   The Clerk of the Court, pursuant to Fed. R. Civ. P. 55(a), entered a default against  
22    Defendants Jonathan Charles Diaz and Dinav Holding Inc. on February 21, 2013.

23      2.11   Defendants are jointly and severally liable for the violations attributed to them as  
24    described above.

### III. CONCLUSIONS OF LAW

3.1 This Court has jurisdiction of the subject matter of this action and of the parties hereto, and Plaintiff's Complaint states claim upon which relief may be granted.

3.2 The Attorney General has jurisdiction to bring this action under RCW 19.86.080 and 47 U.S.C. §227(g)(1).

3.3 Defendants' conduct as described in Findings of Fact 2.3 through 2.6 constitutes 49,309 violations of the Telephone Consumer Protection Act, 47 U.S.C. §227.

3.4 Defendants' conduct as described in Findings of Fact 2.3 through 2.6 constitutes violations of the Commercial Electronic Mail Act, Wash Rev. Code §19.190.

3.5 Defendants' conduct as described in Findings of Fact 2.3 through 2.6 constitutes 49,309 violations of the Consumer Protection Act, Wash. Rev. Code §19.86.

3.6 Plaintiff is entitled to a Decree ordering Defendants to pay the amounts as described herein, including reasonable attorney's fees and costs.

The Court having made the foregoing Finds of Fact and Conclusions of Law, and in accordance therewith, the Court enters the following.

#### IV. JUDGMENT AND DECREE

**NOW, THEREFORE, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:**

4.1 Pursuant to 47 U.S.C. §227(g)(1), Plaintiff shall receive and Defendants shall pay \$24,654,500.00, which constitutes statutory damages for 49,309 violations of the TCPA, calculated at the statutory damages rate of \$500 per violation.

4.2 Pursuant to Wash. Rev. Code §19.86.140, Plaintiff shall receive and Defendants shall pay \$24,654,500.00 in civil penalties, which constitutes a civil penalty for 49,309 violations of the CPA, calculated at the rate of \$500 per violation.

1       4.3 Pursuant to Wash. Rev. Code §19.86.080, Plaintiff shall receive and Defendants shall  
2 pay \$39,443.08 in attorney's costs and fees, which amount is reasonable.

3       4.4 The matter against Defendant Juan Carlos Diaz is dismissed without prejudice.

4       4.5 Defendants, Dinav Holding, Inc. and Jonathan Charles Diaz, and their successors,  
5 assigns, transferees, officers, agents, servants, directors, employees, and all other persons or  
6 entities in active concert or participation with Defendants are hereby enjoined and restrained  
7 from engaging in the following acts and practices in connection with any business:

- 8           a.       Initiating or assisting in the transmission of electronic commercial text  
9                messages to Washington residents with phones equipped with short message capability;  
10           b.       Making calls to any telephone number assigned to a cellular telephone  
11                service using any automatic telephone dialing system or an artificial or

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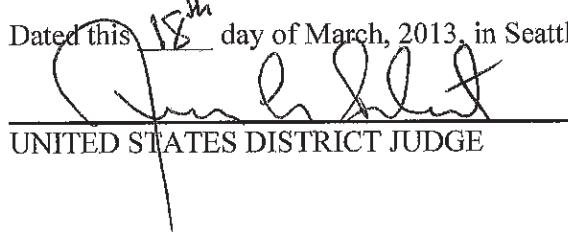
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1                   prerecorded voice without consent of the recipient;

2                   c.       Violating the Consumer Protection Act, Wash. Rev. Code § 19.86 et seq.

4                   Dated this 18<sup>th</sup> day of March, 2013, in Seattle, Washington.

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6                   UNITED STATES DISTRICT JUDGE

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9                   Presented by:

10                  ROBERT W. FERGUSON  
11                  Attorney General

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13                  By:     s/ Paula Selis

14                  PAULA SELIS, WSBA No. 12823  
15                  Assistant Attorney General  
16                  Attorney General of Washington  
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22                  *Attorneys for Plaintiff State of Washington*